

ENTERED

December 22, 2020

David J. Bradley, Clerk

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION

ARTHUR ROBERTS II,

Plaintiff,

VS.

LT. FUENTES, *et al.*,

Defendants.

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CIVIL ACTION NO. 2:20-CV-93

ORDER ADOPTING MEMORANDUM AND RECOMMENDATION

Before the Court is Magistrate Judge Jason B. Libby's Memorandum and Recommendation ("M&R"). (D.E. 21). The M&R recommends that the Court (1) dismiss Plaintiff's complaint (D.E. 1) with prejudice for failure to state a claim and/or as frivolous pursuant to 28 U.S.C. §§ 1915(e)(2)(B) and 1915A(b)(1), (2) deny Plaintiff's Motion for Temporary Restraining Order (TRO) and Preliminary Injunction (D.E. 17), and (3) count the dismissal of this case as a "strike" for purposes of 28 U.S.C. § 1915(g). (D.E. 21, p. 1).

The parties were provided proper notice of, and the opportunity to object to, the Magistrate Judge's M&R. *See* 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b); General Order No. 2002-13. Plaintiff timely filed objections to the M&R. (D.E. 24).¹ Having carefully reviewed the proposed findings and conclusions of the M&R, the record, the applicable law, and having made a de novo review of the portions of the M&R to which Plaintiff's objections were directed, 28 U.S.C. § 636(b)(1), the Court **OVERRULES** Plaintiff's

¹ On December 16, 2020, Plaintiff filed a "Summons" for all defendants listed in this case. (D.E. 25).

objections. (D.E. 24). Accordingly, the Court:

- (1) **ADOPTS** the M&R in its entirety. (D.E. 21).
- (2) **DISMISSES with prejudice** the case in its entirety.
- (3) **DENIES** Plaintiff's Motion for Temporary Restraining Order (TRO) and Preliminary Injunction (D.E. 17).
- (4) **ORDERS** that the dismissal of this case be counted as a "strike" for purposes of 28 U.S.C. § 1915(g).

As the M&R explains, Plaintiff is warned that if he accumulates three strikes, he will not be allowed to proceed in forma pauperis in any civil action or appeal filed while he is incarcerated or detained in any facility unless he is under imminent danger of serious injury. *See* 28 U.S.C. § 1915(g).

SO ORDERED.



DAVID S. MORALES
UNITED STATES DISTRICT JUDGE

Dated: Corpus Christi, Texas
December 22, 2020